THE HON'BLE MRS JUSTICE T.MEENA KUMARI

&

THE HON'BLE MR JUSTICE G.CHANDRAIAH

WRIT PETITION NO.12543 OF 2007

Dated: 26.06.2007

Between:

1. The District Collector, Nalgonda District and others

..Petitioners

And

J. Satyavathi

.. Respondent.

THE HON'BLE SMT. JUSTICE T.MEENA KUMARI
&
THE HON'BLE SRI JUSTICE G.CHANDRAIAH

WRIT PETITION NO.12543 OF 2007

ORDER: (Per Hon'ble Smt. Justice T. Meena Kumari)

This is a writ petition filed by the petitioners challenging the order, dated 25.4.2006 passed by the A.P. Administrative Tribunal in O.A.No.1894 of 2004.

The respondent herein is the applicant before the Tribunal.

Originally, the respondent-applicant filed the above O.A., aggrieved by the orders passed by the 1st petitioner herein dismissing her from service. It is the case of the respondent-applicant that while she was working as Matron Grade II, she was placed under suspension on the ground that she secured employment as Matron by producing a fake Teacher Training Certificate and after receipt of the enquiry report by the 1st petitioner herein from the 2nd petitioner, the 1st petitioner issued a show cause notice and sought explanation from the applicant. The applicant submitted her explanation. But, without considering the same, the 1st petitioner herein has passed the orders dismissing her from service. Having aggrieved by the same, she filed the above O.A.

The Tribunal having observed that the initiation of disciplinary proceedings as well as the enquiry is contrary to the A.P.C.S. (CC&A) Rules, set aside the order of dismissal granting liberty to the authorities to initiate the proceedings in accordance with the Rules. Having aggrieved by the same, the present writ petition is filed by the petitioners-authorities.

It is the case of the petitioners-officials that the applicant

secured the job on 18.12.1984 by producing a fake Teacher Training Certificate and she did not maintain head quarters while she was working as Matron at Government Social Welfare Girls Hostels, at Nidamamur of Nalgonda District and at Nakrikal and on thorough verification and enquiry, the 1st petitioner removed the applicant from service. It is also the case of the petitioners that the appeal as well as the revision preferred by the applicant in this regard was rejected on the ground that she mislead the Government by producing the fake certificate. It is also the case of the petitioners that the disciplinary proceedings are conducted in consonance with APCS Rules and keeping in view the gravity of the irregularity committed by the applicant, which would amount to criminal liability and therefore, she cannot be exonerated.

Heard the learned Government Pleader for Services-II appearing on behalf of the petitioners and the learned Counsel appearing for the respondent.

The facts that are undisputed are that the respondent-applicant was appointed as Matron Grade II vide proceedings dated 11.12.1984 issued by the 1st petitioner and subsequently, during the course of her employment, on the ground that the respondent-applicant secured the job by producing the fake Teacher Training Certificate, she was dismissed from service in the year 2001.

A charge memo was issued on 4.9.2000, for which, the respondent-applicant had submitted her explanation on 27.11.2001 and it goes to show that on receipt of a call letter from the employment exchange, she appeared for the interview for the post of Matron Grade II and the then Collector selected her and gave appointment to her. Generally, the selection for the posts is being done subject to the

verification of the certificates.

Admittedly, the applicant was appointed in the year 1984 whereas the genuineness of the certificate in question was doubted in the year 2000. But, the silence on the part of the authorities from the date of the selection of the applicant till the year 2000, leads to draw an adverse inference against the attitude in dismissing the applicant at this length of time, without following the procedure as contemplated under the Rules in question and thereby, it amounts to cause prejudice and great hardship to the applicant.

At this juncture, it is contended by the learned Government Pleader that she confessed before the Enquiry committee that she did not study TTC and therefore, the certificate produced by the applicant at the time of appointment is a fake one and therefore, she is liable to be dismissed from service. In reply, the learned Counsel for the respondent-applicant contends that for the post of Matron grade II, Teacher Training Certificate course is not necessary and therefore, she may be reinstated in the post held at the time of her dismissal.

At this stage, irrespective of the fact as to whether the certificate possessed by the applicant, is a fake one or not, now, it is pertinent to note that there is no dispute that for the post of Matron Grade II, the certificate in question is not essential and is not a requisite qualification. If that being the case, it is not known as to what are the circumstances that have resorted the authorities to probe into the genuineness of a certificate, which is not a requisite qualification for the post in question, that too after a length of 17 years of service.

However, if the action is taken at the earliest point of time or if the action is taken on the ground that the applicant has adduced a fake certificate, which is a requisite qualification for the post of Matron Grade II, it can be inferred that the action of the authorities is just and

proper. But, in the instant case, the action taken by the authorities on the certificate, which is not required for the post, that too, without following the procedure as contemplated under the Rules, after a lapse of 17 years of service, amounts to arbitrariness. Therefore, in this view of the matter, We feel it just and proper to set aside the order of the 1st petitioner-District Collector directing him to reinstate the applicant in the post of Matron Grade II subject to the following conditions:

1. If the certificate in question is essential and is requisite on eligibility criteria for the immediate promotion from the present post of Matron Grade II, the same shall not be considered for such promotion.
2. The applicant is not entitled to any back wages. However, it is made clear that this interregnum period, for which, she is not entitled to any back wages as already stated in clause No:1, shall be treated as a continuity of service for the purpose of calculating her pension.
3. It is further made clear that the pay and allowances of the applicant drawn as on the date of the dismissal, shall be continued from the date of the reinstatement.
4. It is also made clear that the respondent-applicant is not entitled to claim any benefits in future either monetary or promotional, basing on the TTC certificate in question.

Accordingly, the order of the tribunal is modified and the writ petition is disposed of subject to the above observations. No order as to costs

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Justice T. Meena Kumari

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Justice G.Chandraiah

Date: 26.06.2007
Nn/gurc

THE HON'BLE SMT. JUSTICE T.MEENA KUMARI
&
THE HON'BLE SRI JUSTICE G.CHANDRAIAH

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WRIT PETITION NO.12543 OF 2007

(Order delivered by the Hon'ble Smt. Justice T. Meena Kumari)

Dated: 26.06.2007